



March 31, 2017
BY ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

IN THE MATTER OF:)	
)	
GREEN DOT PUBLIC SCHOOLS)	CC Docket No. 02-6
BEN 16021229)	
)	
2015 Form 471: 998706)	
Funding Request: 2804049)	

REQUEST FOR APPEAL

Green Dot Public Schools (BEN 16021229) wishes to appeal USAC's denial for Cost-Effective reasons of FY **2015 Form 471: 998706, FRN 2804049**. Green Dot contends that USAC incorrectly evaluated cost effectiveness for this application because both sites are stand-alone sites that require stand-alone Internet access, but were evaluated in their entirety as a District. The stand-alone sites do not share data and each has dedicated internet access delivered to their locations. We ask that the FCC overturn the USAC appeal denial and restore funding to FRN 2804049.

Application 998706, FRN 2804049 received an FCDL Denial on May 26, 2016. It was appealed on July 19, 2016, and the appeal denied on January 31, 2017. Green Dot Public Schools now directs this appeal to the FCC.

BACKGROUND

Green Dot Public Schools is a public charter school district primarily located in Los Angeles, California, serving disadvantaged students in the city's poorest neighborhoods. Their portfolio also includes administering schools in Memphis, TN, and Tacoma, WA. In 2015, Green Dot administered 18 schools in Los Angeles, two schools in Tennessee, and one school in Washington State. The schools in Memphis (the focus of this appeal) are nearly 1700 miles from the District office in downtown Los Angeles, resulting in several unique needs not normally present in compact and contiguous school districts.



Due to the distance from the District Office to Memphis, TN, and the fact that the data crosses seven states, it is not feasible to have WAN connections supplied from the District Office to the school in TN as the primary internet connection. A 1 Gbps WAN connection from Los Angeles – which is the standard used at the Green Dot district in conjunction with SEDTA guidelines – to the schools in Memphis would have been cost prohibitive – not only for the direct circuit costs, but also for the special infrastructure buildout required to supply 1 Gbps.

At the time of this application filing for the 2015 funding year, the district had recently started administering one school (Fairley High School) in July 2014, and had been approved for a second school by the State of Tennessee in March 2015 (less than a month prior to the close of the E-rate filing window on April 16, 2015) but had not yet taken over said second school (Wooddale Middle School) for the school year starting August 2015. Indeed, due to complex rules governing the administration of charter schools in Tennessee, Green Dot was not even legally permitted to enter the Wooddale facility until the close of the 2014 academic year (June 2015) but was responsible for providing all internet and voice services starting July 1, 2015. Green Dot concluded that the proximity of the window close and not knowing the newly acquired site's needs prevented them from conducting an accurate bid process, and that the only option to provide services starting July 1, 2015 was to modify existing contract which had been permitted under the establishing Form 470 # **221630001220688**.

Table 1 Language from the Establishing Form 470 # 221630001220688 from 2014.

<p>13 <input type="checkbox"/> Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures and/or provide an Internet address where they are posted and a contact name and telephone number.</p> <p><input type="checkbox"/> Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.</p> <p>If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.</p> <p>Applicant may consider multi-year contracts and/or a contract(s) featuring voluntary extensions. Applicant will give higher weight to vendors who can provide all requested service as an integrated proposal. Applicant prefers bids off of master contracts in TN. Applicant may consider contracts with flexible terms to allow for growth in services to accommodate an increase in the number of sites and users and/or terms to allow for reduction in services due to reduction of sites and users over the term of the contract(s). Applicant may consider contract(s) with flexible terms to allow for growth in bandwidth and/or reduction of bandwidth over the term of the contract(s). Service Providers submitting proposals in response to this FCC Form 470 must be in compliance with the rules and orders governing the schools and libraries universal service support program, and that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments. Service Providers submitting proposals must do so in good faith of compliance with the Lowest Corresponding Price Rule. Lowest corresponding price (LCP) is defined as the lowest price that a service provider charges to nonresidential customers who are similarly situated to a particular E-rate applicant (school, library, or consortium) for similar services. See 47 CFR Part 54 Section 54.500(f). A similarly situated E-rate applicant is one that is located in the service provider's geographic service area, i.e., the area in which the service provider is seeking to serve customers with any of its E-rate services. See First Report and Order 12 FCC Rod 8776, 9032, para. 486. Similar services include those provided under contract as well as those provided under tariff. First Report and Order, 12 FCC Rod 8776, 9032, para. 485.</p>

Green Dot modified the existing ENA contract providing ISP services to Fairley High School approved in 2014 to include services to Wooddale in 2015 at the identical level as Fairley High School of 1 Gbps. The approved and funded Fairley contract from 2014 was duplicated so that the newly added school Wooddale would have the same services as the existing school, Fairley. Without this amendment to the contract, Wooddale Middle School would have had no internet at the start of the 2015 school year.

Because Fairley and Wooddale are separate, stand-alone schools, with each receiving a dedicated internet connection to the ENA central office in Memphis, TN, the funding request should have been evaluated by USAC as separate stand-alone schools – not as a WAN. USAC erred in evaluating it as a WAN as the documentation clearly shows that the service is stand-alone service to the ENA central



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office, with no data shared between sites. Please see the network diagrams for Fairley and Wooddale that demonstrate that the service was 1 Gbps dedicated Internet Access from each school to the service provider ENA's central office.

Table 2a: Green Dot Tennessee Network Diagram for Fairley High School

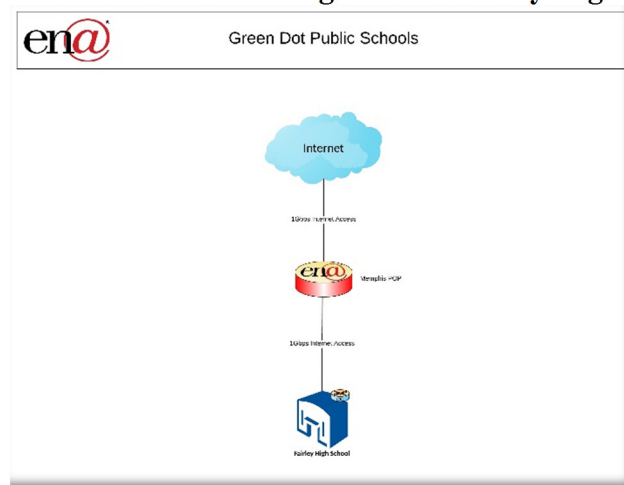
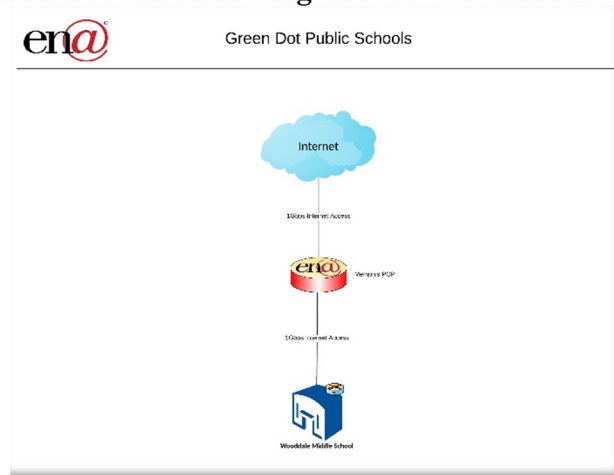


Table 2b Green Dot Tennessee Network Diagram for Wooddale Middle School



When evaluating cost-effectiveness, local service availability must be taken into consideration. In 2014 when this contract was awarded, costs for internet access in Tennessee were considerably higher than the national average (for a variety of reasons including lack of adequate vendor infrastructure and bandwidth capacity, and fewer competitive vendors able to provide the service.) Indeed, two of the bids AT&T (\$15,500/month) and Broadcore (\$21,678/month) that were received were significantly more



costly than the ENA bid accepted of \$12,000/month per site for ISP circuit or \$13,500/month per site for ISP and firewall.¹

Additionally, even the NetTN Tennessee State Master contract in place at the time of the contract signing was \$15,500/month for a 1 Gbps connection. The state contract was \$2,000/month per site (\$24K annual) more costly than the ENA service selected. While the costs of the contract may be high compared to national costs—in Tennessee in 2014, the ENA costs were more cost effective than the Tennessee State Master contract for 1 Gbps service.

Table 3: Monthly Costs for Tennessee State Master Contract for 100 Mbps and 1 Gbps service (Page 5 NetTN contract—Administered by AT&T)

Metro Ethernet 20 Mbps											
Metro Ethernet 50 Mbps	/month	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00	\$2,495.00
Metro Ethernet 100 Mbps	/month	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00	\$2,795.00
Metro Ethernet 200 Mbps	/month	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00	\$4,891.00
Metro Ethernet 300 Mbps	/month	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00	\$7,826.00
Metro Ethernet 450 Mbps	/month	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00	\$9,500.00
Metro Ethernet 600 Mbps	/month	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00	\$11,000.00
Metro Ethernet 750 Mbps	/month	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00
Metro Ethernet 900 Mbps	/month	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00
Metro Ethernet 1 Gbps	/month	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00	\$15,500.00

FCC ORDERS

To date, the FCC has never clearly defined what it considers to be cost effective. It has danced around the issue in the Ysleta order (FCC 03-313) by stating “...a proposal to sell routers at two or three times greater than the prices available from commercial vendors would not be cost effective.”² The Net56 Order (DA 12-1792) reiterated that the Commission has not established a bright line test for cost effectiveness and that the services requested by Harrison were not “two to three times the estimated commercial market price.”³

¹ At the time of the bid in 2014, the Firewall Service was ineligible, but became eligible in 2015.

² FCC 03-313 Docket 02-6 In the Matter of Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, Released December 8, 2003. Paragraph 54 page 27.

³ DA 12-1792 Docket 02-6 In the Matter of Request for Review of the Decisions of the Universal Service Administrator by Net56, Inc., Released November 7, 2012.Paragraph 13, page 7.



In both cases, the FCC has not given further guidance to USAC to administer the cost effectiveness rules. Consequently, USAC appears to have come up with its own arbitrary guidelines for determining cost effectiveness—none of which match the two citations for cost effectiveness in the FCC docket. USAC has exceeded its authority and is setting policy instead of administration in reviews of cost effectiveness. USAC's interpretation of cost effectiveness is based on the "I know it when I see it" approach, instead of actual guidance from the FCC. If it looks cost effective, it is cost effective, and if it doesn't look cost effective, it's not—and while the citations in their Appeal denial letter clearly reference the statutes of the FCC's cost effectiveness guidelines, USAC, themselves have not followed it.

Using the standards of the Ysleta Order and the Net 56 Order, the base guideline for cost-effectiveness would be the State of Tennessee's NetTN State Master Contract—since that contract is available statewide, and would also be applicable to the two schools in Memphis, Tennessee. The full NetTN contract is referenced in the footnotes.⁴ Please reference page 5 for the Direct ISP connection charges. As stated above, the cost for the 1 Gbps connection on the NetTN was \$15,500 a month. Green Dot's contract with ENA was for \$12,000/month (\$13,500/month if you include the Firewall) – or \$2000 a month LESS than the State Master Contract. If even the most conservative Ysleta standards were applied of "two times" the amount of comparable commercially available services instead of "two to three times" as stated in the order — the Green Dot- ENA contract would have passed that threshold for Cost Effectiveness within Tennessee.

Conclusion

While the costs of the Green Dot ENA contracted service for 1 Gbps connections are high compared to national averages, they are low compared to localized costs within the State of Tennessee at the time of the bid award in 2014. ENA's contract annually was \$24,000 lower per site (or \$48,000 for both sites) utilizing Stand-Alone Direct Internet Access at 1 Gbps than the comparable Tennessee State Master Contract costs for similar service. Consequently, the Green Dot –ENA contract passed the standards of cost effectiveness determined by the Ysleta and Net56 Orders, and has demonstrated that the appeal denial should be overturned. Green Dot asks that the FCC grant the appeal of **2015 Form 471: 998706 FRN 2804049**.

Sincerely,

Samantha Mita
Vice President of Technology
Green Dot Public Schools

⁴ NetTN State Master Contract valid from 7/1/2008 to June 30, 2018: <https://nettn.net/docs/default-source/default-document-library/nettn-catalog-of-service.pdf?sfvrsn=0>.